

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DEVAUGHN A. MARKS,

Petitioner,

v.

Case No. 16-11927

THOMAS WINN,

Respondent.

**OPINION AND ORDER GRANTING IN PART AND DENYING IN PART
PETITIONER'S MOTION TO SUPPLEMENT BRIEF**

Petitioner DeVaughn A. Marks filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is Petitioner's "Motion to Suppress In-Court Identification," (Dkt. #3), interpreted below.

Petitioner asserts in his motion that the in-court identification testimony by one of the witnesses at his state trial should have been suppressed. The court will interpret the motion as constituting a supplemental brief in support of his petition. Respondent has not yet filed a response to the petition. Federal Rule 15(a) provides that the court should freely allow a party to amend when justice so requires. Fed. R. Civ. P. 15(a)(2). The court concludes that Respondent will not be prejudiced by allowing Petitioner to file this supplemental pleading. However, to the extent that Petitioner's motion seeks an advanced ruling on the substantive issue, the court refuses to consider the claim until it conducts its plenary review of the case.

Accordingly, IT IS SO ORDERED that the Petitioner's "Motion to Suppress In-Court Identification" is GRANTED to the extent it seeks to supplement the petition.

IT IS FURTHER ORDERED that Petitioner's Motion to Suppress In-Court Identification is DENIED for any other purpose.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: September 27, 2016

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, September 27, 2016, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522